

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8 JUNE 15, 2004

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11 APPEARANCES:

12 MASON BRENT - OIL & GAS REPRESENTATIVE

DONALD RATLIFF - COAL REPRESENTATIVE

13 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

14 JIM MCINTRYE - PUBLIC MEMBER

15
16 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY
GENERAL'S OFFICE

17 DIRECTOR OF THE DIVISION OF GAS & OIL AND PRINCIPAL EXECUTIVE
TO THE STAFF OF THE BOARD

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|----|-------------------------------------|--------------|-------------|-------------|
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| 2 | <u>AGENDA AND DOCKET NUMBERS:</u> | <u>INDEX</u> | <u>UNIT</u> | <u>PAGE</u> |
| 3 | 1) VGOB-94-1024-0475-01 | | U-19 | 3 |
| 4 | 2) VGOB-04-0615-1295 | | AY-101 | 6 |
| 5 | 3) VGOB-04-0615-1296 | | AY-120 | 15 |
| 6 | 4) VGOB-04-0615-1297 | | TC-10 | 20 |
| 7 | 5) VGOB-04-0615-1298 | | 25449 | 26 |
| 8 | 6) VGOB-04-0615-1299 | | V-536103 | 30 |
| 9 | 7) VGOB-04-0615-1300 | | V-536398 | 35 |
| 10 | 8) VGOB-04-0615-1301 | | V-536102 | 38 |
| 11 | 9) VGOB-04-0615-1302 | | V-535859 | Withdrawn |
| 12 | 10) VGOB-04-0615-1303 | | 25406 | 66 |
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| 14 | 12-13) VGOB-04-0420-1281-01 | | VC-535872 | 48 |
| 15 | VGOB-04-0316-1269-01 | | V-550329 | |
| 16 | **Approve minutes from last hearing | | | |
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| 18 | | | | |
| 19 | ***Attached is a copy of the docket | | | |
| 20 | | | | |
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1 BENNY WAMPLER: I'm Benny Wampler. I'm Deputy
2 Director for the Department of Mines, Minerals and Energy,
3 and Chairman of the Gas and Oil Board. I'll ask the members
4 to introduce themselves starting with Mr. Brent.

5 MASON BRENT: My name is Mason Brent. I'm from
6 Richmond and I represent the Gas and Oil Industry.

7 DONALD RATLIFF: I'm Donald Ratliff. I'm from
8 Wise. I represent the coal industry.

9 SHARON PIGEON: I'm Sharon Pigeon. I'm with the
10 office of the Attorney General.

11 JIM MCINTRYE: Jim McIntrye. I'm from Wise,
12 Virginia. I'm a citizen representative.

13 BOB WILSON: I'm Bob Wilson. I'm the Director of
14 the Division of Gas and Oil, and Principal Executive to the
15 staff of the Board.

16 BENNY WAMPLER: Thank you. The first item on the
17 agenda is a petition from prevailing plaintiffs for
18 disbursement of funds escrowed on their behalf for unit U-19.
19 This is docket number VGOB-94-1024-0475-01. It was
20 continued from May. We'd ask the parties that wish to
21 address the Board in this matter to come forward at this
22 time.

23 BOB WILSON: Mr. Chairman.

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1 BENNY WAMPLER: Mr. Wilson.

2 BOB WILSON: This particular application for
3 disbursement has been carried forward because the original
4 application was incomplete and incorrect, so it was not
5 acceptable as filed in final form. I have spoken to the
6 applicants and I was under the impression that they were
7 going to send me a request that this one be withdrawn for
8 submission at a later date. I did not get anything from
9 those folks. I would like to ask the Board if we could just
10 remove this one from the docket until such time as it's
11 properly filed. This application did not require any money
12 to change hands. They haven't paid for it or anything like
13 this. There will be no penalty for withdrawing this except
14 that we lose this docket number. I don't know when they're
15 planning to come back before the Board with this particular
16 issue. I haven't made a lot of progress getting the proper
17 application.

18 (Mr. Wampler and Ms. Pigeon confer.)

19 BENNY WAMPLER: We'll just dismiss this docket
20 number then. Is that in agreement with the Board?

21 MASON BRENT: You need a motion for that.

22 DONALD RATLIFF: Do you need a motion?

23 BENNY WAMPLER: Go ahead and let's do it that way.

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1 MASON BRENT: I move that we dismiss that docket
2 item.
3 DONALD RATLIFF: Second.
4 BENNY WAMPLER: All in favor, signify by saying
5 yes.
6 (All Board members indicate in the affirmative.)
7 BENNY WAMPLER: Opposed, say no.
8 (No audible response.)
9 BENNY WAMPLER: You have approval.
10 MASON BRENT: On that matter if I may just ask---?
11 BENNY WAMPLER: Yes.
12 MASON BRENT: ---was there any follow up on...as I
13 recall on some other matters there? There were some liens
14 that needed to be released and such?
15 BOB WILSON: We're still waiting on documentation
16 for that. We have not disbursed the money as approved by the
17 Board because we are waiting proper documentation of the
18 liens as promised.
19 MASON BRENT: Okay.
20 BENNY WAMPLER: We did have...I think you maybe you
21 have copies. We did have a filing by...or a letter from the
22 attorney, just the same thing we're talking about, that
23 essentially said he was going to go to Court if we didn't go
24

1 ahead and issue the order and the check.

2 MASON BRENT: You ain't seen that?

3 BENNY WAMPLER: We don't have the documentation and
4 I think Ms. Pigeon responded to him to let him know that he
5 can go to Court if he wants to, but until we get the
6 information---.

7 MARK SWARTZ: Just send him a map, huh?

8 BENNY WAMPLER: ---we will not be disbursing the
9 funds. He was essentially saying the IRS has no ability to
10 be in line for any money and that it's improper for us to
11 hold for that reason. We said really we're not holding for
12 that reason. We're waiting for the attorney of the person
13 who came forward to provide the information that he
14 stipulated he would provide. So, anyway.....

15 The next item on the agenda is a petition from CNX
16 Gas Company, LLC for pooling of a coalbed methane until AY-
17 101. This is docket number VGOB-04-0615-1295. We'd ask the
18 parties that wish to address the Board in this matter to come
19 forward at this time.

20 MARK SWARTZ: Mark Swartz and Les Arrington.

21 BENNY WAMPLER: The record will show there are no
22 others. You may proceed.

23 (Mr. Arrington distributes revised exhibits.)

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1 MARK SWARTZ: Do you want to swear the witness for
2 me?

3 (Mr. Arrington is duly sworn.)

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LESLIE K. ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. State your name for us, please.

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. Okay. And where is their office located?

A. P. O. Box, Bluefield, Virginia.

Q. Okay. And do you have a title?

A. Manager of environmental and permitting.

Q. Did you or...either personally or by supervisory capacity cause the notice of hearing and the application and exhibits to be prepared with regard to AY-101?

A. Yes, I did.

Q. And, in fact, you're the fellow that signed the notice of hearing and the application, is that correct?

A. Correct.

Q. Who is the applicant?

A. CNX Gas Company.

1 Q. And that's an LLC?

2 A. Yes, it is.

3 Q. Is it a Virginia LLC?

4 A. Yes.

5 Q. And is that company a wholly owned indirect

6 subsidiary of Consol Energy, Inc.?

7 A. Yes, it is.

8 Q. Is CNX authorized to do business in the

9 Commonwealth?

10 A. Yes, it is.

11 Q. And who is it that the applicant is

12 requesting be the Board's designated operator?

13 A. CNX Gas.

14 Q. As well?

15 A. Yes.

16 Q. Okay. And with regard to that matter, has

17 CNX filed a blanket bond as required by law?

18 A. Yes, it has.

19 Q. And has it registered as an operator with

20 the Department of Mines, Minerals and Energy?

21 A. Yes, it has.

22 Q. Have you listed all of the folks in both the

23 notice of hearing and Exhibit B-3 that you're seeking to pool

24

1 today?

2 A. Yes, we have.

3 Q. And what did you do to notify them of

4 today's hearing?

5 A. We mailed by certified mail return receipt

6 requested on May the 14th, 2004, and published in the

7 Bluefield Daily Telegraph on May the 21st of 2004?

8 Q. And have you filed this morning proofs with

9 regard to publication and mailing with Mr. Wilson?

10 A. Yes, we have.

11 Q. Okay. Do you wish to add anybody as a

12 respondent or dismiss anybody as a respondent with regard to

13 AY-101?

14 A. No.

15 Q. Obvious...it looks like you have...well, go

16 ahead and tell the Board what...what you've been able to

17 lease and what is still outstanding and needs to be pooled?

18 A. 100...we've leased 100% of the coal owner's

19 claim to coalbed methane, and 47.2543% of the oil and gas

20 owner's claim to coalbed methane. We're seeking to pool

21 52.7457% of the oil and gas owner's claim.

22 Q. Okay. Is there one tract here that has just

23 a multitude of owners?

24

1 A. Yes, it is.

2 Q. And is that the problem?

3 A. Yes, it is.

4 Q. If we look, for example, at page one of five

5 of B-3, we've even got folks who have an undivided 1/630th

6 interest, correct?

7 A. Yes.

8 Q. And have you, you know, attempted to lease

9 as many of these people as you can to date?

10 A. We have.

11 Q. And I assume you're continuing to try and

12 lease more of them?

13 A. Yes.

14 Q. Okay. Also, just an oddity with regard to

15 the title, there's a Mr. Martin in...if we look at page four

16 of five, for example, who has 7.2256% and then if we look at

17 page five of five in another...in Tract 1D, he's got

18 14.7184%. Do you see that?

19 A. Yes.

20 Q. Has he entered into a split agreement with

21 someone?

22 A. Yes, he has.

23 Q. And so essentially half of that interest has

24

1 been in effect transferred to someone that we do have a lease
2 relationship with?

3 A. That's correct, it has.

4 Q. And is it true that there is some other
5 folks as well who have entered into split agreements?

6 A. Yes.

7 Q. Okay. With regard to escrow requirements
8 here, is it true that there are conflicts in Tracts 1B and 1C
9 that require escrow?

10 A. That's correct.

11 Q. And then we've got an address unknown and
12 some unknown heirs in, I think, Tract 1C, is that correct?

13 A. That's correct.

14 Q. And as we indicated a moment ago, there's
15 some split agreements. So, you filed an Exhibit EE?

16 A. Yes, we have.

17 Q. And are you requesting that any order that
18 the Board might enter allow the operator to pay the folks who
19 have split agreements directly consistent with the terms of
20 their written split agreements?

21 A. Yes, we are.

22 Q. Okay. This is a Nora unit, correct?

23 A. It is.

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1 Q. And are you proposing one well...one frac
2 well for this unit?

3 A. Yes, we are.

4 Q. And is that well...actually it looks like it
5 has probably been drilled or at least it's permitted.

6 A. Yes.

7 Q. Which one?

8 A. I think it has been drilled.

9 Q. Okay. And it has permit number 5430?

10 A. Yes.

11 Q. And the estimated depth is 2,636 feet?

12 A. Yes.

13 Q. And is it located in the drilling window?

14 A. Yes, it is.

15 Q. How many acres in the unit?

16 A. 58.77.

17 Q. Okay. With regard to the folks that you
18 have been able to lease, and bearing in mind this is a CBM
19 unit---?

20 A. Yes.

21 Q. ---what have you offered...what terms have
22 you offered them?

23 A. It's our standard lease terms for a coalbed
24

1 methane lease is a dollar per acre per year with a five year
2 paid up term and one-eighth production royalty.

3 Q. Okay. Today we're also going to have some
4 conventional wells.

5 A. Yes.

6 Q. Are there different terms that you have been
7 offering with regard to conventional wells?

8 A. Yes, it is.

9 Q. And what would those be?

10 A. The same production royalty, a five dollars
11 an acre---

12 Q. Bonus?

13 A. ---bonus.

14 Q. Okay. You tendered to the Board an estimate
15 of costs and an exhibit which, in fact, reflects some of the
16 actual costs.

17 A. We have.

18 Q. Okay, and the total estimated and actual
19 costs incurred to date with regard to this well is what
20 number?

21 A. \$212,571.39.

22 Q. Okay. Is it your opinion that the plan for
23 development of coalbed methane within this Nora unit, as
24

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1 disclosed by the application and exhibits, is a reasonable
2 plan to do that?

3 A. Yes, it is.

4 Q. And if you take the leases that you've been
5 able to obtain from 100% of the coal owners and, in effect,
6 more than half of the oil and gas owners and combine that
7 with a pooling order, will those two things serve to protect
8 the correlative rights of all of the owners and claimants to
9 coalbed methane within this unit?

10 A. Yes, it will.

11 MARK SWARTZ: That's all I have.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Mr. Kiser. State your name for the
16 record.

17 JIM KISER: Jim Kiser, on behalf of Equitable
18 Production Company. Did you submit a EE today or something?

19 MARK SWARTZ: Yeah.

20 LESLIE K. ARRINGTON: Uh-huh.

21 JIM KISER: Can I get a copy of that?

22 MARK SWARTZ: Well, we didn't submit it today. I
23 mean, it was in the---.

24

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1 JIM KISER: It wasn't in the application I got.
2 LESLIE K. ARRINGTON: It should have been.
3 MARK SWARTZ: Here you go.
4 JIM KISER: So, Ted Martin and Harrison-Wyatt did a
5 split agreement?
6 LESLIE K. ARRINGTON: Uh-huh.
7 MARK SWARTZ: With regard to...actually there's
8 two tracts. With regard to 1C---.
9 JIM KISER: And 1D?
10 MARK SWARTZ: ---and with regard to 1D.
11 JIM KISER: Okay. When did he do that?
12 LESLIE K. ARRINGTON: I can't answer that. You
13 know, without the document in hand, I don't know.
14 JIM KISER: Okay. And he's the oil and gas owner
15 that Equitable has a lease from, right?
16 MARK SWARTZ: Right.
17 LESLIE K. ARRINGTON: That should have...Jim, that
18 should have been in your application.
19 JIM KISER: Okay. If you guys would just get me a
20 copy of this because it wasn't in there.
21 (Mr. Swartz, Mr. Kiser and Mr. Arrington confer.)
22 BENNY WAMPLER: Any questions from members of the
23 Board?
24

1 (No audible response.)
2 BENNY WAMPLER: Do you have anything further?
3 MARK SWARTZ: No, I don't.
4 BENNY WAMPLER: Is there a motion?
5 JIM MCINTRYE: Motion to approve.
6 DONALD RATLIFF: Second.
7 BENNY WAMPLER: Any further discussion?
8 (No audible response.)
9 BENNY WAMPLER: All in favor, signify by saying
10 yes.
11 (All Board members indicate in the affirmative.)
12 BENNY WAMPLER: Opposed, say no.
13 (No audible response.)
14 BENNY WAMPLER: You have approval. The next item
15 on the agenda is a petition from CNX Gas Company, LLC for
16 pooling of a coalbed methane unit AY-120, docket number VGOB-
17 04-0615-1296. We'd ask the parties that wish to address the
18 Board in this matter to come forward at this time.
19 MARK SWARTZ: Mark Swartz and Les Arrington again.
20 BENNY WAMPLER: The record will show there are no
21 others. You may proceed.

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23 LESLIE K. ARRINGTON

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, you need to state your name.

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. And what's your title with them?

A. Manager of permitting and environmental.

Q. Did you either yourself prepare or have prepared under your direction the notice of hearing, the application and the exhibits with regard to the pooling application in AY-120?

A. Yes.

Q. Did you list the people that you're seeking to pool as respondents in both the notice of hearing and Exhibit B-3?

A. Yes.

Q. Have you filed today with the Board some revised exhibits?

A. Yes, we have.

Q. You filed an Exhibit B-2. So, I'd assume you want to dismiss someone.

A. That's correct.

1 Q. Who is it that you're dismissing?
2 A. Mildred Wilson.
3 Q. And why?
4 A. That interest was leased.
5 Q. Okay. And then you filed a revised Exhibit
6 B-3. Is the only revision to B-3 to subtract Mildred Wilson?
7 A. Yes.
8 Q. And then you filed a revised Exhibit A, page
9 two and what was the purpose of that?
10 A. To reduce our unleased interest---.
11 Q. Okay.
12 A. ---by the amount that Mildred Wilson had.
13 Q. Okay. So, the lease from Mildred Wilson
14 caused all of the revised exhibits?
15 A. That's correct.
16 Q. And if you would explain to the Board what
17 percentage of coalbed methane interest and claims you've
18 acquired in this unit and what remains outstanding and needs
19 to be pooled?
20 A. We've leased 99.8138% of the coal owner's
21 claim to coalbed methane and 97.5496% of the oil and gas
22 owner's claim. We're seeking to pool 0.1862% of the coal
23 owner's claim and 2.4504% of the oil and gas owner's claim.

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1 Q. Now, this is a Middle Ridge unit, is that
2 correct?

3 A. Yes, it is.

4 Q. What's the acreage?

5 A. 58.74.

6 Q. How many wells?

7 A. One.

8 Q. Is it in...in the drilling window?

9 A. Yes, it is.

10 Q. Okay. This well is permitted and what's the
11 permit number?

12 A. 5694.

13 Q. The depth, is it 2502?

14 A. I believe so.

15 Q. Okay. And have you provided the Board with
16 an estimate of costs that have yet to be incurred and a
17 report listing actual...some actual costs?

18 A. Yes, I have. It's \$278,237.98.

19 MARK SWARTZ: Okay. Mr. Chairman, I would like to
20 incorporate from the prior hearing the testimony with regard
21 to the applicant and the designated operator and the lease
22 terms, if I could.

23 BENNY WAMPLER: That will be incorporated.

24

1 MARK SWARTZ: Thank you.

2 Q. What did you do to notify the respondents
3 that we were going to be having hearing today?

4 A. We mailed by certified mail, return receipt
5 requested on May the 14th, 2004, published in the Bluefield
6 Daily Telegraph on May the 22nd, 2004.

7 Q. And have you filed your proofs this morning
8 with Mr. Wilson in that regard?

9 A. Yes, we have.

10 Q. Is the plan to develop the coalbed methane
11 resources within AY-120 as disclosed by the application and
12 the exhibits, in your opinion, a reasonable plan to do that?

13 A. Yes, it is.

14 Q. And if we coupled the leases that you have
15 obtained and other agreements from the owners and claimants
16 with a pooling order pooling the percentages that you've
17 described, will that serve to protect the correlative rights
18 of all claimants and owners in this unit with regard to
19 coalbed methane that might be produced?

20 A. Yes, it will.

21 MARK SWARTZ: That's all I have, Mr. Chairman.

22 BENNY WAMPLER: Questions from members of the
23 Board?

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1 SHARON PIGEON: You do have an Exhibit E on this
2 one, right?

3 LESLIE K. ARRINGTON: Yes.

4 MARK SWARTZ: Right. Actually, there's---.

5 Q. Les, there are conflicts in 2A, 2F and 2G,
6 is that right?

7 A. It is.

8 MARK SWARTZ: And then we've got the split
9 agreement EE as well.

10 BENNY WAMPLER: Do you have anything further?

11 MARK SWARTZ: I do not.

12 BENNY WAMPLER: Is there a motion?

13 JIM MCINTRYE: Motion to approve.

14 DONALD RATLIFF: Second.

15 BENNY WAMPLER: Motion and second. Any further
16 discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying
19 yes.

20 (All Board members indicate in the affirmative.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item
24

1 is a petition from CNX Gas Company, LLC for creation of a
2 drilling unit and pooling of a conventional gas unit TC-10,
3 docket number VGOB-04-0615-1297. We'd ask the parties that
4 wish to address the Board in this matter to come forward at
5 this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington.

7 BENNY WAMPLER: The record will show there are no
8 others. You may proceed.

9

10 LESLIE K. ARRINGTON

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Les, you need to state your name, again?

14 A. Leslie K. Arrington.

15 Q. Who do you work for?

16 A. CNX Gas Company, LLC.

17 Q. What's your...what's your title?

18 A. Manager of environmental and permitting.

19 Q. Did you either prepare personally or cause
20 to be prepared under your supervision the notice of hearing,
21 application and related exhibits?

22 A. Yes, I did.

23 Q. And did you, in fact, sign those...the

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1 notice of hearing and application?

2 A. Yes.

3 Q. Who's the respondent here?

4 A. Buchanan County.

5 Q. Okay. And that's the only one?

6 A. Yes, it is.

7 Q. What did you do to notify them?

8 A. We mailed by certified mail, return receipt
9 on May the 14th, 2004, and published in the Bluefield Daily
10 Telegraph on May the 24th, 2004.

11 Q. Okay. And did you file proofs with regard
12 to mailing and publication today with Mr. Wilson?

13 A. Yes, we did.

14 MARK SWARTZ: Mr. Chairman, I'd like to incorporate
15 the testimony from the first hearing, I guess docket item two
16 today, with regard to the applicant, the operator and lease
17 terms.

18 BENNY WAMPLER: That will be incorporated. You've
19 got to change...is the lease terms the same for conventional?

20 MARK SWARTZ: Well, he already testified to
21 conventional.

22 LESLIE K. ARRINGTON: Okay.

23 MARK SWARTZ: He testified to both in the first.
24

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1 LESLIE K. ARRINGTON: Okay.

2 BENNY WAMPLER: But this one is a five dollar
3 bonus?

4 MARK SWARTZ: Right. Correct.

5 BENNY WAMPLER: Go ahead.

6 Q. This is a conventional well as opposed a CBM
7 well?

8 A. Yes, it is.

9 Q. And your prior testimony was that there was
10 one difference between those lease terms?

11 A. Yes, it would be.

12 Q. And what's the difference?

13 A. It was a bonus payment from a dollar to five
14 dollars.

15 Q. Okay. And in this instance we're seeking
16 both to create a drilling unit and to pool it?

17 A. Yes.

18 Q. Is this application to create a statewide
19 spacing unit?

20 A. Yes, it is.

21 Q. Okay. And if we look at the plat here, you
22 can see that it's a circular unit, correct?

23 A. Yes.

24

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1 Q. What's the radius?
2 A. 1250 feet.
3 Q. And the acreage in that unit?
4 A. Is 112.69 acres.
5 Q. Okay. And what interests have you acquired
6 in the conventional oil and gas here?
7 A. 94.3385%. We're seeking to pool 5.6615%.
8 Q. And I take it from reviewing your
9 application that there is no escrow required?
10 A. No.
11 Q. You've described the formations that this
12 well is going to test at paragraph eight of your notice?
13 A. Yes, we have.
14 Q. And what would those be?
15 A. It's...all of the...it's Raven Cliff, Max,
16 and Big Line Berea, Gordon and Devonian Shells.
17 Q. Or any other---?
18 A. Anything else.
19 Q. Okay. Have you provided the Board with an
20 estimate of unincurred costs that may contain some actual
21 costs and, if so, those would be in bold?
22 A. Yes.
23 Q. And what's the total of the costs?
24

1 A. \$287,386.

2 Q. Do you have a permit number?

3 A. I believe it's on yours. 5930

4 Q. And what's the total depth here?

5 A. 5,018 feet.

6 Q. And the location of the well is actually the

7 center of the...well, not quite the center of it.

8 A. It is.

9 Q. It is the center of the circle?

10 A. Yes.

11 Q. Okay. Is there another well? Oh, it's a

12 CBM well.

13 A. Yes.

14 Q. Okay. Is the plan of development of

15 conventional gas within this unit that you're seeking to

16 create, in your opinion, a reasonable plan?

17 A. Yes, it is.

18 Q. And if you take the leases that you've been

19 able to obtain for roughly 95% of this unit and combine that

20 with a pooling order pooling the Buchanan County's interest,

21 would that in combination serve to protect the correlative

22 rights of all owners and claimants to the conventional gas

23 here?

24

1 A. Yes, it will.

2 MARK SWARTZ: That's all I have, Mr. Chairman.

3 BENNY WAMPLER: Questions from members of the

4 Board?

5 (No audible response.)

6 BENNY WAMPLER: You show 1B and 1C as unknown

7 surface owners. Is there...is that a house at 1C showing no

8 one...is no one living or---?

9 LESLIE K. ARRINGTON: Yes. No, there's someone

10 that lives there.

11 BENNY WAMPLER: But----?

12 LESLIE K. ARRINGTON: We just didn't...we didn't

13 ...wasn't doing anything to that property.

14 BENNY WAMPLER: Other questions?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 MARK SWARTZ: No, I don't.

18 BENNY WAMPLER: Is there a motion?

19 DONALD RATLIFF: Move to approve, Mr. Chairman.

20 BENNY WAMPLER: Motion to approve.

21 JIM McINTRYE: Second.

22 BENNY WAMPLER: Motion and second. Any further

23 discussion?

24

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1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying

3 yes.

4 (All Board members indicate in the affirmative.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. The next item on

8 the agenda is a petition from CNX Gas Company, LLC for

9 creation of a drilling unit and pooling of conventional gas

10 unit 25449, docket number VGOB-04-0615-1298. We'd ask the

11 parties that wish to address the Board in this matter to come

12 forward at this time.

13 MARK SWARTZ: Mark Swartz and Les Arrington.

14 BENNY WAMPLER: The record will show there are no

15 others. You may proceed.

16

17

18 LESLIE K. ARRINGTON

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

21 Q. State your name, again.

22 A. Leslie K. Arrington.

23 Q. Who do you work for?

24

1 A. CNX Gas Company, LLC.

2 Q. What's your title with them?

3 A. Manager of environmental and permitting.

4 Q. Did you either prepare or cause to be

5 prepared the notice of hearing, application and related

6 exhibits with regard to well number 25449?

7 A. Yes, I did.

8 Q. And did you, in fact, sign personally the

9 notice of hearing and the application?

10 A. Yes.

11 Q. Have you listed the folks that you're

12 seeking to pool in the notice of hearing and again in Exhibit

13 B-3?

14 A. Yes, we have.

15 Q. What did you do to notify those people of

16 today's hearing?

17 A. It was mailed on May the 14th, 2004;

18 published in the Bluefield Daily Telegraph May the 25th of

19 2004.

20 Q. And did you file proofs with regard to

21 mailing and publication with Mr. Wilson today?

22 A. Yes, I did.

23 Q. This is a conventional well?

24

1 A. Yes, it is.

2 Q. And how many acres does the unit that we're
3 seeking to create contain?

4 A. 112.69 acres.

5 Q. Okay. And, again, the well would be the
6 center of the circular unit?

7 A. Yes, it is.

8 Q. And the radius?

9 A. It's 1250 feet.

10 Q. What interest have you acquired so far by
11 lease or purchase?

12 A. 90.5354% is leased and we're seeking to pool
13 9.4646%.

14 Q. Okay. There's no escrow requirement here?

15 A. No.

16 Q. Have you provided the Board with a well
17 estimate?

18 A. Yes, we have. It's \$326,360.25, to a depth
19 of 6,655 feet.

20 Q. It doesn't look you have a permit yet.

21 A. I didn't at that time. I think it has been
22 issued, but I don't have that with me.

23 Q. Okay. Are the formations, or at least some
24

1 of the formations that you plan to test listed at paragraph
2 eight of the notice?

3 A. Yes.

4 Q. And what would those be?

5 A. It's the Raven Cliff, Max and Big Line,
6 Berea, Gordon and Devonian Shells and anything that's
7 producing within those formations.

8 MARK SWARTZ: Okay. Mr. Chairman, I'd like to
9 incorporate Mr. Arrington's prior testimony with regard to
10 the applicant, the operator and the conventional lease terms.

11 BENNY WAMPLER: They'll be incorporated.

12 Q. And this is an application that seeks
13 to...approval to drill one well, right?

14 A. Correct.

15 Q. Do you want to add anybody as a respondent
16 or dismiss anybody as a respondent today?

17 A. No.

18 Q. Is the plan for developing the conventional
19 gas within this unit that you're seeking to create, in your
20 judgment, a reasonable plan to do that?

21 A. Yes, it is.

22 Q. And if we couple the lease and purchase
23 arrangements that the operator has been...the applicant has
24

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1 been able to enter into with a pooling order pooling the
2 respondents named in the notice and Exhibit B-3, would those
3 two things serve to protect the correlative rights of all
4 owners and claimants to the conventional gas in this unit?

5 A. Yes, it will.

6 MARK SWARTZ: That's all I have, Mr. Chairman.

7 BENNY WAMPLER: Questions from members of the
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Is there a motion?

11 DONALD RATLIFF: Move to approve, Mr. Chairman.

12 JIM MCINTRYE: Second.

13 BENNY WAMPLER: Motion and second. Any further
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All Board members indicate in the affirmative.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. Thank you.

22 MARK SWARTZ: Thank you very much. Have a good
23 fourth.

24

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1 BENNY WAMPLER: The next item on the agenda is a
2 petition from Equitable Production Company for a well
3 location exception for proposed well V-536398, docket number
4 VGOB-04-0615-1300. We'd ask the parties that wish to address
5 the Board in this matter to come forward at this time.

6 JIM KISER: Mr. Chairman and members of the Board,
7 Jim Kiser on behalf of Equitable Production Company. Our
8 witness in this matter will be Mr. Don Hall.

9 BENNY WAMPLER: Go ahead and swear him.

10 (Mr. Hall is duly sworn.)

11 BENNY WAMPLER: The record will show there are no
12 others. You may proceed.

13

14 DON HALL

15 having been duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KISER:

19 Q. Mr. Hall, if you'd state your name for the
20 Board, who you're employed by and in what capacity?

21 A. My name is Don Hall. I'm employed by
22 Equitable Production Company as District Landman.

23 Q. Do your responsibilities include the land
24

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1 involved in this unit and in the surrounding area?

2 A. Yes.

3 Q. Are you familiar with the application that

4 we filed seeking a location exception for well V-536103?

5 A. Yes.

6 Q. Have all interested parties been notified as

7 required by Section 4(B) of the Virginia Gas and Oil Board

8 regulations?

9 A. They have.

10 Q. Would you indicate for the Board the

11 ownership of the oil and gas underlying the unit for well

12 number V-536103?

13 A. Pine Mountain Oil and Gas Corporation owns a

14 100%.

15 Q. Now, what about our reciprocal well

16 situation here? We're seeking an exception from one, two,

17 three wells, is that correct?

18 A. That's correct. We---.

19 Q. Wait a minute. One, two---.

20 A. There's one shown on there that's not...it's

21 not an exception.

22 Q. Actually four wells.

23 A. No.

24

1 BENNY WAMPLER: I only saw two that's an exception
2 to.

3 A. It's an exception to P-107 in the south...
4 northwest corner, PH-25 in the northeast corner, and 2016 in
5 the southeast corner.

6 Q. What about 106?

7 A. And...where do you see 106?

8 MASON BRENT: P-106.

9 Q. P-106.

10 A. Oh, yes, P-106 is in the southwest corner.

11 Q. So, it is four wells?

12 A. So, it's four wells, yes.

13 Q. Everybody got those?

14 A. P-87 is shown to the west, but it's shown
15 for other purposes. We have the right to operate all those
16 wells with the exception of EH-25, which is an Appalachian
17 Production Company well and we're a partner in that well.

18 Q. And we did notify Appalachian Energy, which
19 is Frank Henderson's company and Frank's okay with this
20 application, is that correct?

21 A. That's correct.

22 Q. Could you explain for the Board, in
23 conjunction with the plat, why we're seeking this location
24

1 exception?

2 A. Where it's located among those five wells,
3 there's no place that you could get 2500 feet from all of
4 those wells. So, there's really no legal location in that
5 particular spot.

6 Q. So, in the event this location exception
7 were not granted, would you project the estimated loss of
8 reserves resulting in waste?

9 A. 400 million cubic feet.

10 Q. And what's the total depth of the proposed
11 well under the plan of development?

12 A. It's 5120 feet.

13 Q. Would this be sufficient to penetrate and
14 test the common sources as supplied in the subject
15 formations?

16 A. Yes.

17 Q. Has a permit been applied for?

18 A. I'm not sure.

19 Q. Is the applicant requesting this location
20 cover conventional gas reserves to include the designated
21 formations from the surface to the total depth drilled?

22 A. Yes.

23 Q. In your opinion, would the granting of this
24

1 location exception be in the best interest of preventing
2 waste, protecting correlative rights and maximizing the
3 recovery of the gas reserves underlying the 112.69 acre unit
4 for V-536103?

5 A. They would.

6 JIM KISER: Nothing further of this witness at this
7 time, Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the
9 Board?

10 (No audible response.)

11 BENNY WAMPLER: Is there a motion?

12 JIM MCINTRYE: Motion to approve.

13 MASON BRENT: Second.

14 BENNY WAMPLER: Motion and second. Any further
15 discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All Board members indicate in the affirmative, but
20 Donald Ratliff.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval,.
24

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1 DONALD RATLIFF: I'll abstain, Mr. Chairman.

2 BENNY WAMPLER: One abstention, Mr. Ratliff.

3 BENNY WAMPLER: The next item on the agenda is a
4 petition from Equitable Production Company for a well
5 location exception for proposed well V-536398, docket number
6 VGOB-04-0615-1300. We'd ask the parties that wish to address
7 the Board in this matter to come forward at this time.

8 JIM KISER: Mr. Chairman, again, Mr. Hall will be
9 our witness for this matter.

10

11

12

13 DON HALL

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16 Q. Mr. Hall, do your responsibilities include
17 the land involved here and in the surrounding area?

18 A. They do.

19 Q. Are you familiar with the application that
20 we filed seeking the location exception for this well?

21 A. Yes.

22 Q. And have all interested parties been
23 notified as required by Section 4(B) of the Virginia Gas and

24

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1 Oil Board regulations?

2 A. They have.

3 Q. Could you indicate for the Board the

4 ownership of the oil and gas underlying this unit?

5 A. Pine Mountain Oil and Gas owns 99.22% of the

6 unit and Charlton Tiller owns .78%.

7 Q. And we're seeking an exception from just one

8 well here, that being BAD2552?

9 A. That's correct.

10 Q. And does Equitable have the right to operate

11 that well?

12 A. We do.

13 Q. I guess that's actually a dual producer?

14 A. It was permitted as that. I'm not sure.

15 It's probably just producing in the conventional right now.

16 Q. Okay. And there's no correlative rights

17 issues?

18 A. No.

19 Q. Could you explain for the Board, in

20 conjunction with the plat why we're seeking this exception?

21 A. This spot was chosen by the coal company as

22 to not interfere with their surface mine operations as it's

23 ongoing.

24

1 Q. In the event this location exception were
2 not granted, would you project the estimated loss of reserves
3 resulting in waste?

4 A. 400 million cubic feet.

5 Q. And what is the total depth of the proposed
6 well under the plan of development?

7 A. 5118 feet.

8 Q. Are we requesting that this location
9 exception cover conventional reserves to include the
10 designated formations from the surface to the total depth
11 drilled?

12 A. Yes.

13 Q. In your professional opinion, would the
14 granting of this location exception be in the best interest
15 of preventing waste, protecting correlative rights, and
16 maximizing the recovery of the gas reserves underlying the
17 unit as depicted for V-536398?

18 A. Yes.

19 JIM KISER: Nothing further of this witness at this
20 time, Mr. Chairman.

21 BENNY WAMPLER: Questions from members of the
22 Board?

23 (No audible response.)

24

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1 BENNY WAMPLER: Is there a motion?

2 JIM MCINTRYE: Motion to approve.

3 MASON BRENT: Second.

4 BENNY WAMPLER: Any further discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying yes

7 (All Board members indicate in the affirmative, but

8 Donald Ratliff.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval.

12 DONALD RATLIFF: I'll abstain, Mr. Chairman.

13 BENNY WAMPLER: One abstention, Mr. Ratliff. The

14 next item on the agenda is a petition from Equitable

15 Production Company for well location exception for proposed

16 well V-536102, docket number VGOB-04-0615-1301. We'd ask the

17 parties that wish to address the Board in the matter to come

18 forward at this time.

19 JIM KISER: Mr. Chairman and members of the Board,

20 we'd ask at this time that this petition be withdrawn from

21 the docket. We're going to be able to avoid this exception.

22 BENNY WAMPLER: It is withdrawn. The next item on

23 the agenda is a petition from Equitable Production Company

24

1 for creation and pooling of a conventional gas unit V-535859,
2 docket number VGOB-04-0615-1302. We'd ask the parties that
3 wish to address the Board in this matter to come forward at
4 this time.

5 JIM KISER: Again, Mr. Hall is our witness in this
6 matter. This is a pooling of a conventional unit.

7

8

DON HALL

9 having been duly sworn, was examined and testified as
10 follows:

11

DIRECT EXAMINATION

12 QUESTIONS BY MR. KISER:

13 Q. Now, Mr. Hall, if you'd state your name, who
14 you're employed by and what capacity?

15 A. My name is Don Hall. I'm employed by
16 Equitable Production Company as District Landman.

17 Q. And do your responsibilities include the
18 land involved here and in the surrounding area?

19 A. They do.

20 Q. Are you familiar with the application we
21 filed seeking the establishment of a unit and pooling any
22 unleased interest for EPC well number V-535859, which was
23 dated May the 14th, 2004?

24

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1 A. Yes.

2 Q. And is Equitable seeking to force pool the
3 drilling rights underlying the unit as depicted at Exhibit A
4 to the application?

5 A. Yes.

6 Q. Does Equitable own drilling rights in the
7 unit involved here?

8 A. We do.

9 Q. And prior to filing the application, were
10 efforts made to contact each of the respondents within the
11 unit in an attempt made to work out a voluntary lease
12 agreement?

13 A. Yes.

14 Q. What is the interest of Equitable under
15 lease within the unit?

16 A. We have...we have 92.38% leased.

17 Q. And are all the unleased parties set out at
18 Exhibit B-3?

19 A. Yes.

20 Q. Are you familiar with the ownership of
21 drilling rights of parties other than Equitable underlying
22 this unit?

23 A. Yes.

24
~

1 Q. And what is the interest that's unleased?
2 A. 7.62%.
3 Q. And that's represented by Tract 3, which is
4 owned by the Wise County School Board?
5 A. That's correct.
6 Q. And I believe you have told me that they...
7 when you contacted them, they told you just to go ahead and
8 force pool them?
9 A. That's correct.
10 Q. We don't have any unknown interest owners?
11 A. No.
12 Q. In your professional opinion, was due
13 diligence exercised to locate each of the respondents named
14 the exhibits?
15 A. Yes.
16 Q. Are the addresses set out in Exhibit B to
17 the application the last known addresses for the respondents?
18 A. Yes.
19 Q. Are you requesting this Board to force pool
20 all the unleased interest as listed at Exhibit B-3?
21 A. Yes.
22 Q. Are you familiar with the fair market value
23 of drilling rights in the unit here and in the surrounding
24

1 area?

2 A. Yes.

3 Q. Could you advise the Board as to what those
4 are?

5 A. We pay a five dollar bonus, on a five year
6 term and with a one-eighth royalty.

7 Q. In your opinion, do the terms you've
8 testified to represent the fair market value of and the fair
9 and reasonable compensation to be paid for drilling rights
10 within this unit?

11 A. Yes.

12 Q. Now, as to those respondents who are not
13 leased, that being the Wise County School Board, do you agree
14 that they be allowed the following options with respect to
15 their ownership interest within the unit: one, participation;
16 two, a cash bonus of five dollars per net mineral acre, plus
17 a one-eighth of eight-eighths royalty; three, in lieu of a
18 cash bonus and a one-eighth of eight-eighths royalty, share
19 in the operation of the well on a carried basis as a carried
20 operator under the following conditions: Such carried
21 operator shall be entitled to his share of production from
22 the tracts pooled accruing to his interest exclusive of any
23 royalty or overriding royalty reserved in any leases,

24

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1 assignments thereof, or agreements relating thereto of such
2 tracts but only after the proceeds applicable to his share
3 equal, A), 300% of the share of such cost applicable to the
4 interest of a carried operator of a leased tract or portion
5 thereof; or B), 200% of the share of such cost applicable to
6 the interest of the carried operator of an unleased tract or
7 portion thereof?

8 A. Yes.

9 Q. Do you recommend that the order provide that
10 the elections by respondents be in writing and sent to the
11 applicant at Equitable Production Company, 1710 Pennsylvania
12 Avenue, Charleston, West Virginia 25328, attention Melanie
13 Freeman, Regulatory?

14 A. Yes.

15 Q. Should this be the address for all
16 communications with the applicant concerning any force
17 pooling order?

18 A. Yes.

19 Q. Do you recommend that the order provide that
20 if no written election is properly made by a respondent, then
21 such respondent should be deemed to have elected the cash
22 royalty option in lieu of participation?

23 A. Yes.

24

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1 Q. Should the unleased respondents be given 30
2 days from the date the Board order is executed to file their
3 written elections?

4 A. Yes.

5 Q. If an unleased respondent elects to
6 participate, should they be given 45 days to pay for their
7 proportionate share of well costs?

8 A. Yes.

9 Q. Does the applicant expect that party
10 electing to participate to pay that share of cost in advance?

11 A. We do.

12 Q. Should the applicant be allowed 120 days
13 following the recordation date of the Board order, and
14 thereafter annually on that date until production is
15 achieved, to pay or tender any cash bonus or delay rental
16 becoming due under the order?

17 A. Yes.

18 Q. Do you recommend the order provide that if
19 the respondent elects to participate but fails to pay their
20 proportionate share of well costs satisfactory to the
21 applicant for the payment of those costs, then their election
22 to participate should be treated as having been withdrawn and
23 void, such respondent should be treated as if no initial

24

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1 election had been filed under the order?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 where a respondent elects to participate but defaults in
5 regard to the payment of well costs, any cash sum becoming
6 payable to that respondent be paid within 60 days after the
7 last date on which such respondent could have paid or made
8 arrangements for the payment of those costs?

9 A. Yes.

10 Q. Okay, we don't have any unknown or
11 unlocateable interest owners within this unit. So, the Board
12 does not need to establish an escrow account, is that
13 correct?

14 A. That's correct.

15 Q. Okay. And who should be named the operator
16 under any force pooling order?

17 A. Equitable Production Company.

18 Q. And what's the total depth of the well under
19 the plan of development?

20 A. 5511 feet.

21 Q. Estimated reserves for the unit?

22 A. 450 million cubic feet.

23 Q. Now, are you familiar with the well costs

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1 for the proposed well?

2 A. Yes.

3 Q. Has an AFE been reviewed, signed and
4 submitted to the Board as Exhibit C to the application?

5 A. It has.

6 Q. Was it prepared by an engineering department
7 knowledgeable in the preparation of AFEs and knowledgeable in
8 regard in particular to well costs in this area?

9 A. Yes.

10 Q. In your professional opinion, does it
11 represent a reasonable estimate of the well costs?

12 A. It does.

13 Q. Could you state for the Board both the dry
14 hole costs and the completed well costs?

15 A. The dry hole cost is \$216,790, and the
16 completed well cost is \$399,955.

17 Q. Do these costs anticipate a multiple
18 completion?

19 A. Yes.

20 Q. Does your AFE include a reasonable charge
21 for supervision?

22 A. It does.

23 Q. In your professional opinion, would the
24

1 granting of this application be in the best interest of
2 conservation, the prevention of waste and the protection of
3 correlative rights?

4 A. Yes.

5 JIM KISER: Nothing further of this witness at this
6 time, Mr. Chairman.

7 BENNY WAMPLER: Any questions from members of the
8 Board?

9 MASON BRENT: I just have one question. On the
10 plat, if you'll look at that, in the upper third there's
11 a....below Boyd Williams and above Daniel Williams is a
12 dotted surface property line.

13 DON HALL: Uh-huh.

14 MASON BRENT: It doesn't extend through the circle.
15 Is that a real property line or is that just telling you
16 that the property lines are designated by a dotted line?

17 DON HALL: That's probably a real property line
18 right there. It didn't extend all the way through, but it's
19 not being disturbed by us, I don't think. I see what you're
20 saying.

21 MASON BRENT: If it's a real property line,
22 shouldn't there be another tract number?

23 DON HALL: From the surface standpoint, it
24

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1 shouldn't be. We don't number the surface tracts.

2 MASON BRENT: Okay.

3 DON HALL: Just mineral tracts.

4 MASON BRENT: All right. So, you think that line
5 is just a real property line and it just doesn't extend all
6 the way through the circle?

7 DON HALL: Right. Yeah.

8 BENNY WAMPLER: Other questions from members of the
9 Board?

10 (No audible response.)

11 BENNY WAMPLER: You did say you don't plan any
12 disturbance on that surface?

13 DON HALL: I don't think there's any dist...I
14 believe we come in a different way. I'm not positive about
15 that. I don't have...have a copy of the permit application.
16 I don't think it has been applied for yet.

17 BENNY WAMPLER: Do you have anything further?

18 JIM KISER: Mr. Chairman, we'd ask that the
19 application be approved as submitted.

20 BENNY WAMPLER: Is there a motion?

21 DON HALL: I move to approve, Mr. Chairman.

22 BENNY WAMPLER: Motion to approve. Is there a
23 second?

24

1 JIM MCINTYRE: Second.

2 BENNY WAMPLER: Second. Any further discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying

5 yes.

6 (No audible response.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item

10 on the agenda is a petition from Columbia Natural Resources,

11 LLC for creation and pooling of a conventional gas unit

12 25406, docket number VGOB-04-0615-1303. We'd ask the parties

13 that wish to address the Board in this matter to come forward

14 at this time.

15 JIM KISER: Mr. Chairman, at this time if it's okay

16 with yourself and the Board, my witnesses with CNR have

17 agreed to...they're okay with skipping down to twelve and

18 thirteen, which we are the last two Equitable items and then

19 coming back to ten and eleven, which are their two items.

20 BENNY WAMPLER: All right, we'll do that. I'll go

21 ahead and call the petition from Equitable Production Company

22 for repooling of a coalbed methane unit VC-535872, docket

23 number VGOB-04-0420-1281-01. We'd ask the parties that wish

24

1 to address the Board in this matter to come forward at this
2 time.

3 JIM KISER: Mr. Chairman, if you could also, I'd
4 ask that we maybe consolidate twelve and thirteen and you go
5 ahead and call thirteen at the same time, too. I should have
6 told you that before you did that. I'm sorry. They're both
7 repoolings of units that we pooled earlier that just involved
8 one interest.

9 BENNY WAMPLER: I'll also call the next item. A
10 petition from Equitable Production Company for repooling of a
11 conventional gas unit V-550329, docket number VGOB-04-0316-
12 1269-01. We'd ask the parties that wish to address the Board
13 in this matter to come forward at this time.

14 JIM KISER: Mr. Chairman, Jim Kiser and Don Hall on
15 behalf of Equitable Production Company and then Mr. Counts is
16 here.

17 LOYALL COUNTS: My name is Loyall Counts. I
18 represent L. R. and L.S. Counts and the known heirs of C & R
19 Associates, Incorporated.

20 BENNY WAMPLER: Good morning. The record will show
21 there are no others. You may proceed.

22 JIM KISER: VC-535872, which is item twelve is a
23 coalbed methane unit that we pooled in April; and V-550329 is

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1 a conventional unit that we created and pooled in March. In
2 both of those applications, we listed Mr. Counts and his wife
3 as leased owners and subsequent title work, Mr. Counts and
4 I...he has his comments and he and I have talked several
5 times...a couple of times since this. Subsequent title work
6 has shown that that oil and gas interest in both cases is
7 owned by the I. B. McReynolds heirs. So, that's the only
8 reason we're here repooling the units. If you want us to go
9 back through all the testimony, we'll be happy to, otherwise
10 what we're doing here is you see if you look at your Exhibit
11 B-2 is adding and dismissing parties to reflect what that
12 title work revealed.

13 BENNY WAMPLER: Do you have a witness to that or
14 are you just going to stipulate for the record? Is that what
15 you're going to do?

16 JIM KISER: Yeah, I signed the title opinions.

17 BENNY WAMPLER: All right. Just tell us what the
18 B-2---.

19 JIM KISER: Oh, okay.

20 BENNY WAMPLER: ---what you're doing in B-2 for
21 each one.

22 JIM KISER: Okay, I'll start with item number
23 twelve, which is 5872...535872. We're dismissing Mr. and
24

1 Mrs. Counts as the gas estate owners on Tract 2 and then
2 adding the I. B. McReynolds heirs...the unknown I. B.
3 McReynolds heirs and then the potential claim of C & R
4 Associates, c/o of Mr. Counts.

5 BENNY WAMPLER: No change then on the B-3?

6 DON HALL: Guess they're the same.

7 JIM KISER: Well, it will be the same---.

8 DON HALL: We added...added Tract 2---.

9 JIM KISER: Yeah, it will be a larger unleased
10 percentage now because of the gas estate side of the CBM unit
11 because we were showing Tract 2 as owned by Mr. and Mrs.
12 Counts and being leased. So, that did change.

13 BENNY WAMPLER: And this reflects the change?

14 JIM KISER: Yes, sir.

15 BENNY WAMPLER: Okay.

16 JIM KISER: So, we had 20.91% of the unit that we
17 were showing as leased that's now unleased.

18 DON HALL: And Exhibit E changed, too, escrow
19 exhibit.

20 JIM KISER: Yeah. So, Tract 2 will now...the
21 escrow in the gas estate side changed, also.

22 BENNY WAMPLER: As reflected in this Exhibit E that
23 we have?
24

1 JIM KISER: As reflected in Exhibit E.

2 DON HALL: Yes. The one's that revised.

3 JIM KISER: Revised 5/12/04. Then 550329, the

4 conventional unit, changes occur with tract three in this

5 particular case, which we're depicting as being owned and

6 leased by Mr. and Mrs. Counts. It's 15.09% of the unit.

7 Again, it's now being listed as the unknown I. B. McReynolds

8 heirs along with C & R Associates. That's reflected in B-2.

9 B-3, we'll have the...we pick up the additional unleased

10 interest of Tract 3 and add it to Tract 4, so our total

11 unleased percentage changes again there. It increases by

12 15.09%. And Tract 3 is added to Exhibit E because of the

13 unknown McReynolds heirs.

14 BENNY WAMPLER: So all of the exhibits in both of

15 these that are showing revised as of 5/12, 2004 reflect those

16 changes that you've just described.

17 JIM KISER: That is correct.

18 DON HALL: That's correct.

19 BENNY WAMPLER: Do you have anything further?

20 JIM KISER: No, sir, other than the applications be

21 re-approved as revised.

22 BENNY WAMPLER: Mr. Counts.

23 LOYALL COUNTS: Yes, before...I'm going to hand out

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1 a letter here, but I would like to reflect on the total
2 situation. I agree with Mr. Kiser that talking in tandem
3 here is fine, no problem. I would like to---.

4 BENNY WAMPLER: Let me get you sworn in.

5 LOYALL COUNTS: Okay, please do.

6 (Witness is duly sworn.)

7 BENNY WAMPLER: Go ahead, Mr. Counts.

8 LOYALL COUNTS: I'm going to hand these out here,
9 but I would appreciate it if you would not read them until
10 you've heard my reflection on this.

11 Mr. Kiser and I have had, and Mr. Hall, have a good
12 personal relationship. There's no ill will here at all.
13 It's just a matter of semantics and trying to work out the
14 details. Keep it there so we can read it.

15

16 When a gentleman from Equitable approached me, I
17 had purchased this property several years ago as an
18 investment. When they approached me to drill a well, a
19 conventional well, I believe it was, first, the 329 well, I
20 said it's no problem, let's go forward. At that point in
21 time, I specifically asked, based on findings that I had on a
22 title abstract that I had run several years ago on the entire
23 McReynolds tract, which constitutes almost 600 acres. Based

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1 on that information and how you looked at title, this is one
2 of the...really the entire tract is screwed up in the fact
3 that it has problems with closure on titles. It has problems
4 with information contained within the deeds as to location.
5 So at that point in time, I spent a lot of money having an
6 abstract run by an attorney, also a survey of the entire
7 tract that I thought pertained to my part of the claims on
8 coal and gas. As a result of that, I brought that up to Mr.
9 Hall here and shared that information with him some time ago
10 and he arranged some meetings and I took that to the probable
11 owners. Well, at that point in time, the ownership changed
12 hands, so it's kind of like playing cards with a five hand
13 card player. So I kind of laid it aside. This wasn't that
14 kind of routine thing. But it all boils down to
15 interpretation of ownership. Under the...I'm a student of
16 science. I'm an engineer. I've done process control work
17 all my life, over 40 years. We have basic scientific means
18 by which we run a process. It's based on four things,
19 process, level, flow, and temperature. It's very simple, you
20 think, until you get into specifying instrumentation. If you
21 specify a valve, you have to go into a lot of other things.
22 These guys fortunately don't have a whole lot to deal with in
23 carbon steel on their gas. But as a result of that

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1 information, I had the term mineral come up and I think this
2 ...I was here to find out the basis for which they made their
3 claim that I was kicked out. I haven't seen evidence of that
4 basis even though I've asked and Mr. Kiser called me as late
5 as yesterday, gave me a courtesy call, and I told him we'd be
6 here and we'd just work it out today. So I haven't seen the
7 basis of that, and on advice from my attorney, I was asked to
8 get that information. What was the basis for denial. To
9 this moment I haven't gotten that. You're going to read that
10 in my letter. So on that I can tell my side of it to the
11 Board and there's been a lot of work. You guys here this
12 morning probably have forgotten more this morning about this
13 business than I'll ever know. I just am not into that, but I
14 do have a scientific mind. I will give the State of Virginia
15 a big applause, and including you people on the
16 terminologies, the definitions and everything in the Virginia
17 Code, which I have reviewed personally, and I think we agree
18 pretty much down the center on these issues. If you get into
19 the terms, then I don't know, maybe Mr. Kiser can tell me
20 what was the basis of the denial and then we'll go from
21 there.

22 JIM KISER: Okay. I apologize. I thought that's
23 what I did both yesterday and the day you came by the office.

24

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1 LOYALL COUNTS: You just said...you didn't say
2 where. You said it was based on your abstract, based on---.
3 JIM KISER: Based on a title opinion---.
4 LOYALL COUNTS: On your title opinion.
5 JIM KISER: ---the only estate that you all owned
6 was the surface.
7 LOYALL COUNTS: I apologize if I misunderstood you.
8 JIM KISER: You've been reasonable to work with.
9 There's no animosity. The basis for this whole repooling was
10 that the title work that we did, examination that we did,
11 revealed...or our examination---.
12 LOYALL COUNTS: Well, let me go a little bit
13 further, then, based on that. As far as I know, coming out
14 of the Magna Carte of 12/16, the two kinds of property are
15 real and personal. Real property, according to English legal
16 tradition, is the land and anything firmly attached to it,
17 such as buildings and the permanent fixtures of those
18 buildings, and the minerals beneath the surface of the land.
19 Then we come back to the term mineral from a scientific
20 basis and this is where I get into problems. Maybe you guys
21 can help. My definition, based on my research, and I'll give
22 you my references first, the Carnegie Library, Pittsburgh
23 Science and Technology Department, United States Library of
24

1 Congress, Microsoft Encarte, Encyclopedia Britannica, and
2 various dictionaries, and the Virginia Code, 45.1-361.1,
3 45.1-361.21 and 22, 45.1-180 called definitions. According
4 to my assessment of it, a naturally occurring homogeneous
5 substance formed by inorganic process and having a
6 characteristic set of physical properties. A definite and
7 limited range of chemical composition and molecular structure
8 usually expressed in crystal form. Any organic material
9 especially as distinguished from animal or vegetable form,
10 mineralogists use the term mineral for a substance that has
11 all four of the following features: It must be found in
12 nature; it must be made up of substances that were never
13 alive; it has the same chemical makeup wherever it is found;
14 its atoms are arranged in a regular pattern to form solid
15 crystals. That's why rocks are sometimes described as an
16 aggregate, or a combination of minerals. Geologists extend
17 the definition to include clay, loose sand and certain
18 limestones.

19 Now, all of the ownership records that I've seen,
20 including the coal company's deed, as late as yesterday I
21 read it, they claim that gas is real property. My
22 conclusion, the only thing that makes it not real property is
23 the fact by the mere definition of gas itself. Gas is

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1 expandable. It moves. It migrates along the coalbeds and
2 along the earth's strata. Therefore, someone's gas that was
3 over there yesterday and it's on my property today and over
4 there somewhere tomorrow, that makes it personal property,
5 not real property. That, to me, if this is allowed to go on,
6 then my personal property has been removed. Now, I'm sure as
7 a good lawyer here, he can tell me a lot more about this than
8 I know about real property. I'm not a lawyer. So, that's my
9 definition. So, now based on that, I'll read my letter to
10 you and you may read along with me, if you wish.

11 "The wells listed were allowed pooled previously on
12 the dates described by the Virginia Gas and Oil Board. L. R.
13 Counts, representative, L. R. Counts, L. S. Counts and the
14 known heirs of I. B. McReynolds gas and oil estate through C
15 & R Associates were in attendance. Now, upon receipt of the
16 applicant's request for repooling, I asked through
17 applicant's counsel for the basis of this hearing. However,
18 to date I have received no answer; therefore, I offer no
19 comment on this proceeding except to ask the Gas and Oil
20 Board to consider the following."

21 Before I go into this next thing. I have kind of a
22 little funny one to tell you. Down in Australia, you might
23 have heard it in the news, a couple of weeks ago the banana
24

1 industry has said they have found a way to make a sellable
2 fuel from the methane from their overripe bananas. So my
3 analogy of that, I guess if the judge tells me a banana is a
4 mineral, I'm going to have to believe him. So I thought I'd
5 share that with you a little bit.

6 "I have, therefore, offered no comment on this
7 proceeding except to ask the Gas and Oil Board to consider
8 the following: The Virginia Supreme Court opinion number
9 030634 dated March 5, 2004, Harrison White, LLC versus
10 Ratliff and others, applies to VC-535872, the opinion offered
11 resolves the coalbed methane ownership issue for the
12 aforementioned gas and oil estates." Either way you guys
13 rule today, that still applies. "The new repooling order, if
14 allowed, will be solely allowed by the applicant's
15 interpretation of gas and oil ownership. I ask the Gas and
16 Oil Board to consider this repooling request is no better
17 than the first one and it's still subject to ownership
18 interpretation. So it's my understanding the Virginia Gas
19 and Oil Board does not act upon ownership issues; therefore,
20 I'm asking the Virginia Gas and Oil Board to allow the
21 present pooling order to stand as such."

22 I have to protect my own personal interest prior to
23 anyone else. That's my comment.

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1 BENNY WAMPLER: Questions from members of the
2 Board.

3 (No audible response.)

4 BENNY WAMPLER: Mr. Kiser, do you have any comment,
5 question or response?

6 JIM KISER: No. We would just...once again, we
7 spent quite a bit of time and Mr. Hall and Mr. Counts, I
8 think are going to talk afterwards, but we've got certain
9 issues about...because of lessors and things, about what we
10 can provide him with regarding our title work, but we're
11 going to provide him with everything that's within out
12 purview to do so.

13 LOYALL COUNTS: I don't have any opposition to them
14 drilling their wells. They can go today to work if they
15 want. I don't have a problem with that. I think that the
16 work on the ownership issue should have been worked out up
17 front, and I specifically asked a man, and I can't remember
18 his name. He wasn't involved. He wasn't the guy I signed
19 the contract with. It wasn't the young man, it was some
20 other body, and he said as far as he knew there was no
21 ownership issues. So, basically that's all I'm saying, but
22 that's...in their contract, it says that verbal commitments
23 are not binding. So I'll take it at that.

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1 JIM KISER: Based upon the work that my firm did do
2 on the title on these two tracts, we would ask that these
3 particular applications, the repooling applications, be
4 approved as submitted to reflect the proper ownership of the
5 oil and gas estate.

6 BENNY WAMPLER: And you're representing that you
7 have certified title work that reflects that?

8 LOYALL COUNTS: I have certified title work, also.

9 BENNY WAMPLER: That conflicts with his certified
10 title work or---?

11 LOYALL COUNTS: Here again, it would be based on
12 interpretation of that title work.

13 (Ms. Pigeon and Mr. Wampler confer.)

14 BENNY WAMPLER: Yeah, I guess the thing we're
15 in...you know, you're saying you have certain title that I'm
16 taking to be supporting the way it was before. You have
17 certified title as to the change. We don't...we don't
18 resolve title here. Have you seen his certified title work?

19 JIM KISER: No.

20 BENNY WAMPLER: Have you seen his certified title
21 work?

22 LOYALL COUNTS: No.

23 BENNY WAMPLER: Is it reasonable to continue this
24

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1 and you all swap certified title work and come back and talk
2 to the Board next month?

3 LOYALL COUNTS: Well, I don't want to hold them up.
4 If they want to go ahead and do whatever they've got to do,
5 that's fine. We can work out the issues. I think I
6 presented letters the last time from my counsel that we
7 stated our position on this. So, I think I've got to go with
8 his recommendation based on those letters that I've presented
9 to the Gas and Oil Board. Further than that, I would have to
10 ask his approval before I could do that. He's unfortunately
11 out of town on vacation.

12 JIM KISER: I'm glad Mr. Counts brought that up.
13 He did submit letters at the previous hearings on these wells
14 stating that he was a conflicting claimant as a surface
15 owner.

16 LOYALL COUNTS: All I'm asking for is that the
17 Board continue it as it is until we work these problems out.
18 That's all I'm saying. I don't want to hold these guys up
19 if they want to drill the well.

20 BENNY WAMPLER: I don't want to offer any influence
21 to the Board, but absent continuation, I'll just tell where I
22 am. We have before us an attorney who says his firm has done
23 the certified title work and, you know, he's here. You were
24

1 on notice. Your attorney is not here. You know, you don't
2 have the conflicting information before us now. I would be
3 inclined to approve the application for repooling. That
4 doesn't even still close the door because it's pooled and it
5 could change if it's later worked out, wouldn't that be
6 correct? And...so it's...you know, it's no harm, no foul
7 from that standpoint. However, you know, here again, I'm
8 just stating for the record that's...that's how I feel.

9 JIM KISER: Well, I could...these are the letters
10 from Mr. Count's attorney, Dave Jordan, regarding the...I
11 guess it just deals with 535872, which is one of the wells.
12 But the letters I think were presented at the prior hearing
13 in April.

14 BENNY WAMPLER: Do you want to just go ahead and
15 read it for the record?

16 JIM KISER: Yeah. It says, "Dear Mr. Kiser: It
17 has been brought to my attention---." I guess they're the
18 same.

19 DON HALL: It's the same letter...no, they're
20 different.

21 JIM KISER: Oh, it's different tracts. It involves
22 three different tracts. "It has been brought to my attention
23 that my client has been working with you and your client,
24

1 Equitable Production Company, to reach a resolution on the
2 ownership of the coalbed methane rights on Tract 5 to well
3 535872," and in this letter Tracts 2 and 4 to 5378...535872.
4 "It is my client's position that the coalbed methane on
5 Tract 5 and on Tract 2 and 4 belong to the surface owners
6 L.S....L. R. Counts and L.S. Counts." Once again I'm not
7 trying...he has been a very good guy to work with. But my
8 interpretation of this would be that if his lawyer is stating
9 that the coalbed methane belongs to them as the surface
10 owners, if they had...if they thought they had a claim that
11 it belonged to them as either an oil and gas or coal owner,
12 then these letters would state that. All we're saying is
13 what they own is the surface, just like apparently these
14 letter...to me that's what these letters say.

15 BENNY WAMPLER: Any questions from members of the
16 Board?

17 LOYALL COUNTS: I would like to ask Mr. Kiser
18 one...one question if I may.

19 BENNY WAMPLER: Mr. Counts.

20 JIM KISER: Sure.

21 LOYALL COUNTS: Is your abstract based on the term
22 "mineral"?

23 JIM KISER: Well, what we actually did in this
24

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1 particular case, probably ran out all four estates in the
2 bundle of sticks, the oil, gas, the coal and the surface.
3 Oil and gas being a mineral if that is what your question is.

4 LOYALL COUNTS: Okay, you've answered my question.

5 BENNY WAMPLER: What's your pleasure?

6 DONALD RATLIFF: I move to approve, Mr. Chairman.

7 BOB WILSON: Mr. Chairman, excuse me.

8 BENNY WAMPLER: Mr. Wilson.

9 BOB WILSON: Before we get into that, I have a
10 little problem here. This well, which is being referred to
11 here as V-550329 is permitted, I believe, as P-550329. Some
12 of the exhibits on the application are also under P-550329.
13 We need to get established, I think, exactly which well we're
14 dealing with here or what the proper...it is permitted as P-
15 550329.

16 BENNY WAMPLER: We've got both in these exhibits.

17 DON HALL: That should be what it is. Those old
18 numbers that start with...those numbers that start with 55
19 and then have three digits at the end are wells that we were
20 going to drill years ago and never got...never completed
21 them. The number stayed with them. Now, they tell me our
22 computer system won't handle a three number system. So, they
23 have to add 550 to it. In the...it would have been P-329 to
24

1 begin with. Now, they've added 550. If it was permitted as
2 P, it should be P even though the plat says V. That's
3 probably---.

4 LOYALL COUNTS: I concur with Mr. Hall. That's...
5 that's what happened.

6 DON HALL: We probably need to give you a corrected
7 plat. Anything that has V on it, we should have P on it.

8 BOB WILSON: I was going to say I think there's
9 quite a few things in here that show it as a V well.

10 BENNY WAMPLER: Yeah, it has both of them.

11 BOB WILSON: We would need, I guess, revised---.

12 DON HALL: Okay. Revised things for everything,
13 okay.

14 BENNY WAMPLER: All right. We have a motion for
15 approval.

16 JIM MCINTYRE: Second.

17 BENNY WAMPLER: Motion and second. Any further
18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.
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1 (No audible response.)

2 BENNY WAMPLER: You have approval. Thank you.

3 Thank you, Mr. Counts.

4 LOYALL COUNTS: Thank you for your kindness and

5 attention.

6 (Mr. Kiser confers with Mr. Hall.)

7 BENNY WAMPLER: I'm sorry, Mr. Kiser?

8 SHARON PIGEON: He's talking to---.

9 BENNY WAMPLER: Oh. The next item on the agenda is

10 a petition from Columbia Natural Resources, LLC for creation

11 and pooling of a conventional gas unit 25406. This is docket

12 number VGOB-04-0615-1303. We'd ask the parties that wish to

13 address the Board in this matter to come forward at this

14 time.

15 JIM KISER: Mr. Chairman and members of the Board,

16 Jim Kiser on behalf of Columbia Natural Resources, LLC. Our

17 witnesses in this matter will be Ms. Lynette Greene as to the

18 land matters and Mr. Robert Kennon as to the operations

19 matters. We'd ask that they be sworn at this time.

20 (Ms. Greene and Mr. Kennon are duly sworn.)

21 BENNY WAMPLER: The record will show there are no

22 others. You may proceed.

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LYNETTE GREENE

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Ms. Greene, you are employed by who and in what capacity?

A. Columbia Natural Resources as a senior land representative.

Q. And you have testified before the Board on force pooling matters and location exceptions in the past?

A. Yes.

Q. And your qualification as an expert in the area of land have been accepted by the Board?

A. Yes.

Q. And you're familiar with the application that we filed seeking to establish a drilling unit and pooling any unleased interest for CNR well number 25406, which was dated May the 14th, 2004?

A. Yes.

Q. Now, does CNR own drilling rights in the unit involved here?

A. Yes.

1 Q. And prior to filing the application, were
2 efforts made to contact each of the respondents named within
3 the unit and an attempt made to work out an agreement
4 regarding the voluntary lease from all these folks?

5 A. Yes.

6 Q. And there's quite a few of them, wasn't
7 there?

8 A. Yes.

9 Q. And what is the interest of CNR under lease
10 within the unit at this time?

11 A. 88.987622.

12 Q. And are you familiar with the ownership of
13 drilling rights of parties other than CNR underlying this
14 unit?

15 A. Yes.

16 Q. And what percentage remains unleased at this
17 time?

18 A. 11.01%.

19 Q. And that's reflected in Exhibit B-3?

20 A. Yes.

21 Q. Now, subsequent to the filing of this
22 application, have you continued to attempt to reach and
23 agreement with the unleased respondents listed at Exhibit B-

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1 3?

2 A. Yes.

3 Q. But as a result of those efforts, have you
4 acquired any new leases since we filed the application?

5 A. No.

6 Q. And are all the unleased parties set out at
7 Exhibit B-3?

8 A. Yes.

9 Q. Okay, and incredibly with all these folks,
10 we do not have any unknown interest, right?

11 A. Right.

12 Q. So in your professional opinion, was due
13 diligence exercised to locate each of the respondents named
14 herein?

15 A. Yes.

16 Q. And are the addresses as set out in Exhibit
17 B to the application the last known addresses for the
18 respondents?

19 A. Yes.

20 Q. Are you requesting this Board to force pool
21 all the unleased interest as listed at Exhibit B-3?

22 A. Yes.

23 Q. Are you familiar with...are you familiar
24

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1 with the fair market value of drilling rights in the unit
2 here and in the surrounding area?

3 A. Yes.

4 Q. Could you advise the Board as to what those
5 are?

6 A. It's a five dollar bonus, five year term and
7 a one-eighth royalty.

8 Q. In your opinion, do the terms you've just
9 testified to represent the fair market value of and fair and
10 reasonable compensation to be paid for drilling rights within
11 this unit?

12 A. Yes.

13 Q. Now, as to all the respondents listed in
14 Exhibit B-3, the unleased folks, some of whom are very
15 familiar to me, and probably will elect to participate in
16 these wells---

17 A. Yes, they will.

18 Q. ---because they have in the past.

19 A. That's what they chose.

20 Q. They may be familiar to the Board, at least
21 one of them, I'm sure. Based on those folks who remain
22 unleased, do you agree that they be allowed the following
23 statutory options with respect to their ownership interest

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1 within the unit: one, participation; two, a cash bonus of
2 five dollars per net mineral acre, plus a one-eighth of
3 eight-eighths royalty; or three, in lieu of a cash bonus and
4 a one-eighth of eight-eighths royalty, share in the operation
5 of the well on a carried basis as carried operator under the
6 following conditions: Such carried operator shall be
7 entitled to his share of production from the tracts pooled
8 accruing to his interest exclusive of any royalty or
9 overriding royalty reserved in any leases, assignments
10 thereof, or agreements relating thereto of such tracts but
11 only after the proceeds applicable to his share equal to 300%
12 of the share of such cost applicable to the interest of a
13 carried operator of a leased tract or portion thereof, or
14 200% of the share of such cost applicable to the interest of
15 the carried operator of an unleased tract or portion thereof?

16 A. Yes.

17 Q. Do you recommend that the order provide that
18 the elections by any respondents be in writing and sent to
19 the applicant at Columbia Natural Resources, LLC, 900
20 Pennsylvania Avenue, Charleston, West Virginia 25302,
21 Attention: Lee Robinson?

22 A. Yes.

23 Q. Should this be the address for all
24

1 communications with the applicant concerning any force
2 pooling order?

3 A. Yes.

4 Q. Do you recommend that the order provide that
5 if no written election is properly made by a respondent, then
6 such respondent should be deemed to have elected the cash
7 option in lieu of participation?

8 A. Yes.

9 Q. Should the unleased respondents be given 30
10 days from the date of the execution of the order to file
11 their written elections?

12 A. Yes.

13 Q. If an unleased respondent elects to
14 participate, should they be given 45 days to pay for their
15 proportionate share of well cost?

16 A. Yes.

17 Q. Does the applicant expect that party
18 electing to participate to pay in advance that share of
19 completed well cost?

20 A. Yes.

21 Q. Should the applicant be allowed 120 days
22 following the recordation date of the Board order, and
23 thereafter annually on that date until production is

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1 achieved, to pay or tender any cash bonus or delay rental
2 becoming due under the force pooling order?

3 A. Yes.

4 Q. Do you recommend that the order provide that
5 if the respondent elects to participate but fails to pay
6 their proportionate share of well cost to the applicant, then
7 their election to participate be treated as having been
8 withdrawn and void?

9 A. Yes.

10 Q. Do you recommend the order provide that
11 where a respondent elects to participate but defaults in
12 regard to the payment of those well costs, then any sum
13 becoming due...any cash sum due that respondent under the
14 order be paid within 60 days after the last date on which
15 such respondent could have paid or made arrangements for the
16 payment of those well costs?

17 A. Yes.

18 Q. Since it's a conventional well, we don't
19 have any unknown and unlocateable interest owners within the
20 unit, we don't need to...the Board does not need to establish
21 an escrow account for this well, is that correct?

22 A. That's correct.

23 Q. And who should be named the operator under
24

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1 any force pooling order?

2 A. Columbia Natural Resources, LLC.

3 JIM KISER: That's all I have for this witness at
4 this time, Mr. Chairman.

5 BENNY WAMPLER: Any questions from members of the
6 Board?

7 (No audible response.)

8 BENNY WAMPLER: I may be missing something, but in
9 looking at your exhibit of the unleased parties, your B-3,
10 the second page of that under Tract 5, when I'm looking under
11 Tract 5 over in Exhibit B, I'm seeing people listed there
12 that are not listed here. Patricia Hogston, for example,
13 O. C. Beach and Delphia Davis, Rex...well, Rex Spencer is
14 listed.

15 JIM KISER: All right, let's see, Tract 5. We've
16 got Kathleen Muckie. Yeah...well, it looks like we
17 missed---.

18 LYNETTE GREENE: They should be on there, Patricia
19 Hogston, O. C. Beach---.

20 JIM KISER: Hogston, O. C. Beach---.

21 LYNETTE GREENE: Uh-huh.

22 JIM KISER: ---and Delphia Davis.

23 LYNETTE GREENE: Mazie, she's there.

24

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1 JIM KISER: Rex is there and Mazie is there and
2 Ervin Kenkie. Okay. We need to file a revised B-3 then to
3 reflect those. Additional five minute unleased interest in
4 that Tract 5.

5 BENNY WAMPLER: Other questions from members of the
6 Board?

7 (No audible response.)

8 BENNY WAMPLER: Next witness...call your next
9 witness.

10 JIM KISER: Let me make a note of this so I don't
11 forget.

12 BENNY WAMPLER: I'm sorry?

13 JIM KISER: Can I...can you give me a second to
14 make my note of this so I don't forget?

15 BENNY WAMPLER: Oh, sure. I'm sorry.

16 (Mr. Kiser writes himself a note.)

17 ROBERT KENNON

18 having been duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KISER:

22 Q. Mr. Kennon, if you'd state your name for the
23 Board, who you're employed by and in what capacity?

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1 A. Robert L. Kennon. I'm a senior engineer in
2 the engineering department for Columbia Natural Resources,
3 LLC.

4 Q. And you too have testified on various other
5 occasions before the Virginia Gas and Oil Board?

6 A. Yes.

7 Q. And do your responsibilities include the
8 land involved here and in the surrounding area?

9 A. Yes.

10 Q. And are you familiar with the proposed
11 exploration and development of this unit under the plan of
12 development?

13 A. Yes.

14 Q. What is the total depth of the well under
15 the plan of development?

16 A. 5,198 feet.

17 Q. And are we requesting that the force pooling
18 to exclude the designated formations and any other formations
19 including coal formations, which may be between those formations
20 designated from the surface to the total depth drilled?

21 A. Yes.

22 Q. And what are estimated reserves for this
23 unit?

24

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1 A. 415 million standard cubic feet.

2 Q. Now, are you familiar with the well costs
3 for the proposed well?

4 A. Yes.

5 Q. Has an AFE been reviewed, signed and
6 submitted to the Board as Exhibit C to this application?

7 A. Yes.

8 Q. Was that AFE prepared by an engineering
9 department knowledgeable in the preparation of AFEs and
10 knowledgeable in regard to well costs in particular in this
11 area?

12 A. Yes.

13 Q. In your professional opinion, does the AFE
14 represent a reasonable estimate of the well costs?

15 A. Yes.

16 Q. Could you state for the Board both the dry
17 hole costs and the completed well costs?

18 A. The dry hole costs are \$193,886 and the
19 estimated completed well costs are \$376,744.

20 Q. Does your AFE anticipate a multiple
21 completion?

22 A. Yes.

23 Q. Does it include a reasonable charge for
24

1 supervision?

2 A. Yes.

3 Q. In your professional opinion, would the
4 granting of this application be in the best interest of
5 conservation, the prevention of waste and the protection of
6 correlative rights?

7 A. Yes.

8 JIM KISER: Nothing further of this witness at this
9 time, Mr. Chairman.

10 BENNY WAMPLER: Any questions from the Board?

11 (No audible response.)

12 BENNY WAMPLER: Can you explain on your...well,
13 maybe that's...never mind. I thought...I was looking at your
14 legend and saw existing well down below that. But the one
15 you have is properly labeled. It's 4996.42 feet away from
16 this well. Strike that. Do you have anything else?

17 JIM KISER: We'd ask that the application be
18 approved as submitted with the revision to Exhibit B-3 that
19 we'll submit reflecting any additional five minute interests
20 in Tract 5 that are unleased.

21 BENNY WAMPLER: Is there a motion?

22 JIM McINTYRE: Motion to approve.

23 DONALD RATLIFF: Second.

24

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1 BENNY WAMPLER: Motion and second. Any further
2 discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying
5 yes.

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item
10 on that agenda is a petition from Columbia Natural Resources,
11 LLC for creation and pooling of conventional gas unit 24979,
12 docket number VGOB-04-0615-1304. We'd ask the parties that
13 wish to address the Board in this matter to come forward at
14 this time.

15 JIM KISER: Again, Mr. Chairman, Jim Kiser on
16 behalf of CNR. My witnesses again will be Ms. Keene and Mr.
17 Kennon. I do have a revised Exhibit B-3 for this one.

18 (Mr. Kiser passes out a revised Exhibit.)

19

20 LYNETTE GREEN

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. KISER:

23 Q. Ms. Greene, if you'd again state your name,

24

--

1 who you're employed by and in what capacity?

2 A. I'm employed with Columbia Natural Resources
3 as a senior land representative.

4 Q. And your responsibilities do include the
5 land involved here and in the surrounding area?

6 A. Yes.

7 Q. And you're familiar with the application
8 that we filed seeking the establishment a drilling unit and
9 pooling any unleased interest for CNR well number 24979,
10 which was dated May the 14th, 2004?

11 A. Yes.

12 Q. Now, does CNR own drilling rights in the
13 unit involved here?

14 A. Yes.

15 Q. And prior to filing of the application, were
16 efforts made to contact each of the respondents within the
17 unit and an attempt made to work out a voluntary lease
18 agreement?

19 A. Yes.

20 Q. And what is the interest of CNR under lease
21 within the unit at this time?

22 A. 95.336765%.

23 Q. And are you familiar with the ownership of
24

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1 drilling rights of parties other than CNR in this unit?

2 A. Yes.

3 Q. And what percentage remains unleased at this
4 time?

5 A. 4.66%.

6 Q. Okay. And that is a percentage of Tract 3
7 in the unit, is that correct?

8 A. Yes.

9 Q. This is essentially the Belcher heirs---?

10 A. That's correct.

11 Q. And that is actually leased by CNX?

12 A. Uh-huh, that's correct.

13 Q. Now, so all the unleased parties are set out
14 in our revised Exhibit B-3?

15 A. Yes.

16 Q. Again, we don't have any unknown or
17 unlocateable parties?

18 A. Yes. I'm sorry, we don't have any unknown.

19 Q. In your professional opinion, was due
20 diligence exercised to locate each of the respondents named
21 herein?

22 A. Yes.

23 Q. And are the addresses set out in Exhibit B
24

1 to the application the last known addresses for the
2 respondents?

3 A. Yes.

4 Q. Are you requesting this Board to force pool
5 all the unleased interest listed at revised Exhibit B-3?

6 A. Yes.

7 Q. Again, are you familiar with the fair market
8 value of drilling rights in the unit here and in the
9 surrounding area?

10 A. Yes.

11 Q. Could you advise the Board as to what those
12 are?

13 A. It's a five dollar bonus for a five year
14 term and a one-eighth royalty.

15 Q. In your professional opinion, do the terms
16 you've just testified to represent the fair market value of
17 and fair and reasonable compensation to be paid for drilling
18 rights within this unit?

19 A. Yes.

20 JIM KISER: Mr. Chairman, I would ask that the
21 testimony regarding the statutory election options afforded
22 unleased parties and their different obligations with regard
23 those election options, the testimony that was taken in our
24

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1 previous hearing, being VGOB docket number 04-0615-1303 be
2 incorporated for the purposes of this hearing.

3 BENNY WAMPLER: That will be incorporated.

4 Q. And again, Ms. Greene, we don't need to
5 establish an escrow account?

6 A. That's correct.

7 Q. And who should be named the operator under
8 any force pooling order?

9 A. Columbia Natural Resources, LLC.

10 JIM KISER: Nothing further of this witness at this
11 time, Mr. Chairman.

12 BENNY WAMPLER: Any questions from members of the
13 Board of this witness?

14 (No audible response.)

15 BENNY WAMPLER: I guess I have one question. Mr.
16 Kiser, the statement that you made when we were looking at
17 Tract 3 and talking about the Belcher heirs and you said that
18 was leased by CNX Gas Company.

19 JIM KISER: Uh-huh.

20 BENNY WAMPLER: I didn't understand what you meant
21 when you said that one is showing that it's unleased. I
22 thought you---.

23 JIM KISER: Well, it's unleased to us and we don't
24

1 have a farm-out or any agreement from them. But they've
2 agreed...we've notified them and they've agreed to allow us
3 to force that interest and then what will happen is we will
4 force pool it and then we will...I assume our agreement will
5 be that we'll handle any royalty payments to their lessor.

6 BENNY WAMPLER: Okay.

7 JIM KISER: As opposed to last month when we force
8 pooled a well that had an Equitable lease on it and we show
9 them as being leased because we did have a farm-out from
10 them.

11 BENNY WAMPLER: Okay. All right.

12 DONALD RATLIFF: Mr. Chairman.

13 BENNY WAMPLER: Mr. Ratliff.

14 DONALD RATLIFF: Is that why the zero acreage shows
15 up under the Belcher---?

16 JIM KISER: Right. John Belcher is just an agent.
17 The first time we filed this exhibit...our exhibits for
18 this, we had been told by Mr. Belcher that he was going to
19 bring an instrument that showed he was the legal attorney-in-
20 fact and agent for all of these other people and that way we
21 could have listed just him. As it turns out, he never
22 produced it. So, we felt the conservative approach was to go
23 ahead and list all the different trustees that CNX didn't

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1 lease from and notify all of them.

2 BENNY WAMPLER: Okay. Thank you. Other questions?

3 (No audible response.)

4 BENNY WAMPLER: Call your next witness.

5

6 ROBERT KENNON

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Kennon, again state your name for the
10 Board, who you're employed by and in what capacity?

11 A. Robert Kennon. I'm a senior engineer in the
12 engineering department for CNR, LLC.

13 Q. And do your responsibilities include the
14 land involved here and in the surrounding area?

15 A. Yes.

16 Q. And are you familiar with the proposed
17 exploration and development for this unit?

18 A. Yes.

19 Q. What is the total depth of this well?

20 A. 5,075 feet.

21 Q. And the estimated reserves for the unit?

22 A. 375 million standard cubic feet.

23 Q. Now, are we requesting the force pooling of
24

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1 conventional gas reserves not only to include the designated
2 formations, but any other formations excluding coal
3 formations which may between those formations designated from
4 the surface to the total depth drilled?

5 A. Yes.

6 Q. Now, are you familiar with the well costs
7 for this well?

8 A. Yes.

9 Q. Has an AFE been reviewed, signed and
10 submitted to the Board as Exhibit C?

11 A. Yes.

12 Q. In your opinion, was it prepared by an
13 engineering department that's knowledgeable in the
14 preparation of AFEs and in particular knowledgeable in regard
15 to well costs in this area?

16 A. Yes.

17 Q. In your opinion, does the AFE represent a
18 reasonable estimate of the well costs?

19 A. Yes.

20 Q. And what are both the dry hole costs and the
21 completed well costs for this well?

22 A. The estimated dry hole costs are \$185,275
23 and the estimated completed well costs are \$311,204.

24

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1 Q. Do these costs anticipate a multiple
2 completion?
3 A. Yes.
4 Q. Does your AFE include a reasonable charge
5 for supervision?
6 A. Yes.
7 Q. In your professional opinion, would the
8 granting of this application be in the best interest of
9 conservation, the prevention of waste and the protection of
10 correlative rights?
11 A. Yes.
12 JIM KISER: Nothing further of this witness at this
13 time, Mr. Chairman.
14 BENNY WAMPLER: Any questions from members of the
15 Board?
16 (No audible response.)
17 BENNY WAMPLER: What is the well number, Mr.
18 Kennon?
19 ROBERT KENNON: The well number is 824979, also
20 known as the HY-52.
21 SHARON PIGEON: So, it should have an 8 in it?
22 ROBERT KENNON: 824979, that's our internal company
23 number yes.
24

1 LYNETTE GREENE: The 8---.

2 JIM KISER: The 8 just designates what, Virginia?

3 ROBERT KENNON: Well, it's just an old United Fuel
4 designation.

5 JIM KISER: We'll go back and anything that has not
6 got an 8 on it, we'll put an 8 on it.

7 SHARON PIGEON: We've got to have one set of
8 numbers, guys. I don't care which set you choose.

9 BOB WILSON: Mr. Chairman, I'm not sure, but I
10 believe it's permitted as 24979 without the 8 on it. That's
11 the way the permits normally come in.

12 LYNETTE GREENE: They normally coming without the
13 8?

14 ROBERT KENNON: They normally come in with a five
15 digit number?

16 BOB WILSON: Yes.

17 ROBERT KENNON: Again, the 8 is an internal company
18 designation. That's---.

19 SHARON PIGEON: So, we're going to put---?

20 JIM KISER: Sharon Pigeon, you tell me what you
21 want me to do?

22 SHARON PIGEON: Well, I want it to match the permit
23 number and so that's---?

24

1 JIM KISER: Okay.

2 SHARON PIGEON: ---the 24979, right?

3 BOB WILSON: Uh-huh.

4 ROBERT KENNON: And we've worked with some other

5 companies that just use the five digit number in the

6 permitting process. I mean, that's the route that we go with

7 that.

8 SHARON PIGEON: But our exhibits---.

9 ROBERT KENNON: We would drop the 8 or the 6 or

10 whatever that might be that first internal designation.

11 SHARON PIGEON: Our exhibits, however, don't track

12 that---.

13 BOB WILSON: Yeah, this one...excuse me.

14 SHARON PIGEON: Some of the exhibits have the 8.

15 So, we need those replaced.

16 JIM KISER: B and B-3.

17 SHARON PIGEON: The B-3 you just gave us as well.

18 JIM KISER: Right.

19 BOB WILSON: This particular well does not have an

20 application in at this point in time. So, I can't say what

21 it's going to come in as. But I think the key would be to

22 make sure internally that---.

23 ROBERT KENNON: Yeah.

24

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1 BOB WILSON: ---everything that is submitted has
2 the same number on it whether it has the 8 or not.

3 ROBERT KENNON: Right.

4 BOB WILSON: Maybe there would be some internal
5 communication there before you submit either revisions to
6 this or the permit application.

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: Let me ask, Mr. Wilson, these two or
9 three different revisions from today, do we just send them to
10 your office to Diane and she'll take care of them?

11 BOB WILSON: Yes.

12 JIM KISER: We'd ask that the application be
13 approved as submitted with the caveat that we're going to
14 find out how it's going to be submitted for permit if it
15 hasn't been and make sure all the exhibits and all the
16 enumeration on the notices and application match with the
17 permit, be it 824979 or just 24979.

18 BENNY WAMPLER: Thank you. Anything further from
19 members of the Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion?

22 JIM McINTYRE: Motion to approve.

23 MASON BRENT: Second.

24

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1 BENNY WAMPLER: Motion and second. Any further
2 discussion?
3 (No audible response.)
4 BENNY WAMPLER: All in favor, signify by saying
5 yes.
6 (All members signify by saying yes.)
7 BENNY WAMPLER: Opposed, say no.
8 (No audible response.)
9 BENNY WAMPLER: You have approval. Thank you.
10 Board members, that finished our agenda items. You received
11 a copy of the minutes from last month's meeting and I'll
12 entertain a motion to approve those unless there's---.
13 DONALD RATLIFF: I move those be approved as
14 submitted, Mr. Chairman.
15 BENNY WAMPLER: Motion to approve as presented.
16 JIM MCINTYRE: Second.
17 BENNY WAMPLER: Second. Any further discussion?
18 (No audible response.)
19 BENNY WAMPLER: All in favor, signify by saying
20 yes.
21 (All members signify by saying yes.)
22 BENNY WAMPLER: They are approved. Mr. Wilson, do
23 you have anything?
24

1 BOB WILSON: No, sir.

2 BENNY WAMPLER: The hearing is adjourned. Thank
3 you very much.

7 STATE OF VIRGINIA,

8 COUNTY OF BUCHANAN, to-wit:

9 I, Sonya Michelle Brown, Court Reporter and Notary
10 Public for the State of Virginia, do hereby certify that the
11 foregoing hearing was recorded by me on a tape recording
12 machine and later transcribed under my supervision.

13 Given under my hand and seal on this the 9th day of
14 July, 2004.

15

16 NOTARY PUBLIC

17

18 My commission expires: August 31, 2005.

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